

ORDINANCE NO. 2020- 14

“BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF SEBASTIAN, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:”

AN ORDINANCE TO AUTHORIZE THE CONVERSION OF FOUR (4) RURAL FIRE DEPARTMENTS, BIG CREEK FIRE DEPARTMENT, RIVERDALE FIRE DEPARTMENT, MILLTOWN-WASHBURN FIRE DEPARTMENT AND GREENWOOD RURAL FIRE DEPARTMENT, FROM A 501(c)(3) NON-PROFIT ORGANIZATION TO A FIRE PROTECTION DISTRICT FOLLOWING THE GUIDELINES SET FORTH IN ACA 14-284-226, CONVERSION TO A FIRE PROTECTION DISTRICT, INCLUDING THE APPLICABLE GUIDELINES AND PROCEDURES IN SUBCHAPTER 2 OF TITLE 14 CHAPTER 284 AS INTERPRETED BY ARKANSAS ATTORNEY GENERAL OPINIONS 2018-136, 2019-032, AND 2019-064

Section 1. Petition To Convert To A Fire Protection District

This ordinance recognizes four petitions submitted to the Sebastian County Quorum Court received by the Sebastian County Judge on July 6, 2020, said petitions for conversion to fire protection district, submitted by Big Creek Fire Department, 311 West Utah Ranch Road, Lavaca, Arkansas, 72941, Riverdale Fire Department, 1041 North Highway 96, Lavaca, Arkansas, 72941, Milltown-Washburn Fire Department, 6573 East Highway 252, PO Box 1344, Greenwood, Arkansas, 72936, and Greenwood Rural Fire Department, 12221 South Highway 96, PO Box 2023, Greenwood, Arkansas, 72936; attached as Exhibits A to this ordinance.

Section 2. Attorney Generals Opinions

This ordinance includes for reference the interpretation of Act 1077 of 2019 by Attorney General's Opinions 2018-136 issued April 2, 2019, 2019-032 issued July 31, 2019 and Opinion 2019-064 issued March 26, 2020; attached to this ordinance as Exhibits B.

Section 3. Ordinance to convert 501(C)(3) Non-Profit Organization To A Fire Protection District

In accordance with the interpretation of Act 1077 of 2019 by Attorney General Opinion 2019-032, Arkansas Code Annotated 14-284-208 Order for Establishment-Board of Commissioners-Appointment-Compensation, were not expressly repealed by Act 1077 of 2019, regarding the conversion of a Fire Department to a Fire Protection District, under the provisions of ACA 14-284-226. Accordingly, ACA 14-284-208 requires the County Court (County Judge) to enter an order establishing the district "if an ordinance of the Quorum Court establishing a district is sustained".

Section 4. County Court Calls Public Meeting in the Fire Protection District to Elect Board of Commissioners by Electors in the District

In accordance with Attorney General Opinion 2019-64 issued on March 26, 2020, Act 1077 of 2019 did not expressly repeal ACA 14-284-204 and ACA 14-284-208. Accordingly the members of the Board of Commissioners of Fire Districts formed after July 3, 1989 shall be elected at a public meeting called by the County Court (County Judge). The Commissioners shall be elected by the qualified electors residing within the district. Vacancies occurring on the board because of resignation, removal, or otherwise shall be filled by the County Court for the unexpired term. The members of the board shall serve without compensation but shall be entitled to actual expenses incurred in attending meetings in an amount not to exceed \$50.00 per month for each member of the board, as authorized by the Quorum Court of the County. Members of the Board may be removed from office by the County Court (County Judge) for good cause shown. Members of the Board may be removed by special election to be held within ninety days after the presentation of a special election removal petition signed by ten percent of the assessed land owners or the assessed per parcel or per acre owners, with the removal of the board member to be determined by the majority votes of the votes casted in person by the assessed land owners or the assessed per parcel or per acre of property owners. Each assessed land owner or assessed parcel or acre property owner shall have one vote per paid assessment. The

election for the removal of the board member shall be held at a meeting at a designated location within the fire protection district.

Section 5. Firefighting Districts

The firefighting districts for the four fire departments petitioning to convert from a 501(c)(3) non-profit organization to a fire protection district have been designated to provide firefighting services to a specified firefighting district by County Ordinance 2017-8, adopted March 21, 2017 and Ordinance 2017-10, adopted April 18, 2017, attached as Exhibits C. These firefighting districts designate the property owners served in each firefighting district. For reference the number of residential, commercial and parcels in each of the four petitioning fire departments designated fire protection district is set forth as Exhibits D.

Section 6. Public Hearing

In accordance with ACA 14-284-204 and 208, when an ordinance is adopted by the Quorum Court establishing a fire protection district, the Quorum Court shall publish notice of the adoption of the ordinance in a newspaper of general circulation in the County. The notice shall include a copy of the ordinance and shall prescribe a time and place within the proposed district for a public hearing on the ordinance. A public hearing shall be held at some large public facility within the boundaries of the proposed district at least sixty days and not more than ninety days after the date of publication of the notice. If at the hearing a majority of the qualified electors in the proposed district appear in person to oppose the establishment of the district or if petitions opposing the establishment of the district and containing the signatures of a majority of the qualified electors in the proposed district are filed at or before the public hearing, the ordinance creating the district shall be void. If a majority of the qualified electors of the proposed district do not object to the establishment of the district in person or by petition within the time prescribed in this subsection, the ordinance shall be valid and the district shall be established. The Board of Commissioners for the district shall be appointed and serve, and the levy of assessed benefits to support the district may

be made, in the same manner as is provided in this subchapter for fire protection districts established pursuant to a vote of the electors. A fire protection district established by ordinance of the Quorum Court without a vote of the electors of the district shall have no authority to issue bonds and to pledge assessed benefits of the district to secure bonds, unless the question of the issuance on a bonds by the district is first submitted to, and approved by, a majority of the qualified electors of the district voting on the issue.

Section 7. Annual Fire Protection District Assessments

In accordance with ACA 14-284-212 through 216, all annual assessments extended and levied under this subchapter are payable at the time ad valorem real property taxes are payable. The County shall list the fire protection district assessments as an involuntary collection beginning with the next ad valorem real property tax statement. A property owner shall pay the assessments under this subchapter as a prerequisite to paying his or her ad valorem real property taxes. The Collector shall report delinquent assessments annually to the Board of Commissioners of the fire protection district for informational purposes. The Collector shall add to the amount of the delinquent assessment a penalty of ten percent (10%) and shall collect the delinquent assessment in the same manner as delinquent ad valorem real property taxes.

The Board of Commissioners shall appoint three (3) assessors to assess the annual benefits which will accrue to the real property within the district from the providing of fire protection services.

The Board of Commissioners may assess a flat fee per parcel of land, per acre or per landowner. The Board of Commissioners may establish a different flat fee for the classification of property as commercial, residential or as unimproved property.

The Board of Commissioners shall once a year order the assessors to reassess the annual benefits of protected property in the fire protection district and the annual benefits may be raised or lowered as fire protection services benefiting the property change.

If the annual benefits assessed exceed one hundred dollars (\$100) per parcel, the quorum court of the county in which the fire protection district lies shall review and approve or disapprove the reassessment.

If the Board of Commissioners determines that there have been no significant changes in improvements on the lands in the fire protection district, the board of commissioners may direct that assessed benefits remain the same as the benefits assessed the preceding year.

Section 8. Expenditures – Filing of Report

In accordance with ACA 14-284-114, the Board of Commissioners shall file with the county clerk in January of each year a certified itemized report showing all moneys received, the date of receipt, and the source from which received. The report shall further show all moneys paid out, the date paid, to whom paid, and for what purpose during the preceding year, together with an itemized list of all delinquent taxes showing the owner, a description of the property, the years for which taxes are delinquent, and the amount of total delinquency.

Dated: 9/22/, 2020.

ATTEST:

Sharon Brooks
County Clerk

APPROVED:

David K. Jackson
County Judge